(20)

HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO.2474 OF 2003

Nawab Khan & others

Versus

The General Manager/Personal Manager (Manpower) & others

POST FOR ORDER ON 2nd September, 2003

Sd/-
L.C. Bhadoo
Judge

(21)

A.F.R.

HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO.2474 OF 2003

PETITIONERS:

1. Nawab Khan, S/o Shri Babu Khan,
Aged about 35 years,
Working as G. Maz. Cat.-II,
Central E & M Workshop,
South Eastern Coalfields Ltd.,
Korba, R/o SECL Colony, Korba,
Tehsil & Distt. Korba (C.G.)

2. S. Murti Babu,
S/o Late Shri Tarkeshwar,
Aged about 33 years,
Working as G. Maz., Cat.-I,
Central E & M Workshop, SECL,
Korba, R/o SECL Colony, Korba,
Tehsil & Distt. Korba (C.G.)

3. Mahesh Prasad Gupta,
S/o Shri Phul Chand Gupta,
Aged about 41 years,
Working as G. Maz., Cat.-II,
Central E & M Workshop, SECL,
Korba, Teshil & Distt. Korba (C.G.)

4. Ganesh Lal Rajput,
S/o Late Shri Charanjit Lal,
Aged about 27 years,
Working as G. Max., Cat.-I,
Central E & M Workshop, SECL,
Korba, R/o SECL Colony, Korba,
Teshil & Distt. Korba (C.G.)

Versus

RESPONDENTS:

1. The General Manager/Personal
Manager (Manpower),
South Eastern Coalfields Ltd.,
Head Office: Bilaspur,
Tehsil & Distt. Bilaspur (C.G.)

2. The Personal Manager,
Central E & M Workshop, SECL,
Korba Area,
Tehsil & Distt. Korba (C.G.)

3. The General Manager,
Central E & M Workshop, SECL,
Korba Area,
Tehsil & Distt. Korba (C.G.)

4. The Chief General Manager,
South Eastern Coalfields Ltd.,
Korba Area,
Teshil & Distt. Korba (C.G.)

Present: - Shri Rupesh Shrivastava, counsel for the petitioners

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Before: Hon'ble Shri L.C. Bhadoo, J

O R D E R

(Passed on 2nd September, 2003)

1. The petitioners have preferred this writ petition under Article 226/ 227 of the Constitution of India, by which they have challenged the order dated 05.08.2003 transferring the petitioners by the General Manager, Central E & M Workshop, SECL, Korba.

2. The case of the petitioners is that they are the employees of SECL. Respondent No.3, some time in the first quarter of the year 2002, made a request to respondent No.4 for transferring the surplus employees in the establishment of respondents 2 & 3. On that request, respondent No.4 invited willingness from the employees for posting them in the Central E & M Workshop, SECL, Korba. On that the petitioners and other employees of respondent No.4 submitted their willingness for working in Central E & M Workshop, Korba. After receiving the willingness, the matter was forwarded to respondent No.1 for issuing necessary transfer orders and respondent No.1 transferred the petitioners vide Annexures P-2 & P-3. Petitioners 2 & 4 hardly worked for about 14 months and petitioners 1 & 3 have hardly worked for about a year at Central E & M Workshop, Korba. Thereafter, vide the impugned order the petitioners have been reverted back to their original places. The petitioners have taken the company accommodation at Central E & M Workshop, Korba and they have been shifted with their bag and baggage. The impugned order of transfer has not been passed on administrative exigencies as the petitioners were

transferred on vacant posts, therefore, the orders of reverting the services of the petitioners are illegal, arbitrary and against the principles of natural justice. When once respondents 2 & 3 accepted the services of the petitioners, then the question does not arise for reverting back because the services of the petitioners have been adjusted on the vacant posts lying in Central E & M Workshop, Korba.

3. I have heard the learned counsel for the petitioners and perused the record.

4. It is an admitted position that the petitioners are employees of SECL. The petitioners have not brought on record any document, rules & regulations, circulars or orders which shows that it is necessary for the administration to obtain consent of its employees while transferring them from one unit to another unit without which it cannot be held that the respondents were not within the right to transfer the petitioners back to their original place vide the impugned orders. Moreover, even as per the contention of the petitioners, their services were transferred to Central E & M Workshop, Korba, against the existing vacancies after obtaining willingness from them. Now they have been reverted back to their original place. As mentioned above, it has not been mentioned or brought on record any material which shows that the petitioners cannot be reverted back without their consent or the petitioners were transferred to Central E & M Workshop with an understanding or condition that they are being transferred on permanent basis. Moreover, there is no order showing that the services of the petitioners were permanently absorbed and placed under Central E & M Workshop. The petitioners were transferred to Central E & M Workshop and simply they have been reverted which does not effect the rights of the petitioners. The transfer order (Annexure P-1) by which seventeen persons have been reverted to their original places speaks that "the following employees of CWS, Korba who have been transferred to Korba Area are hereby released with effect from

07.08.2003 (F.N.)". This order itself shows that the services of various employees were requisitioned with a purpose and they have now been released w.e.f. 07.08.2003 to their respective places.

5. In view of the above, I do not find any substance in this petition. The same is liable to be dismissed and it is accordingly, dismissed.

Sd/-
L.C. Bhadoo
Judge